

**US Army Corps
of Engineers**
Louisville District ®

Joint Public Notice

Public Notice No.
LRL-2016-630-mad

Open Date:
17 Feb 2017

Close Date:
20 Mar 2017

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Matt Dennis, CELRL-RDS, Rm 752
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: 502-315-6689

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA) and for State Water Quality Certification pursuant to Section 401 of the CWA from the Indiana Department of Environmental Management, Office of Water Quality.

APPLICANT: Michael Owen
Solar Sources, Inc.
P.O. Box 7
Petersburg, IN 45756

LOCATION: Montgomery, Daviess County, Indiana

Antioch Creek, Egan Ditch, Oberts Ditch, South Fork Prairie Creek, and associated wetlands and unnamed tributaries of these streams.

Latitude: 38.69490

Longitude: -87.08049

7.5 Minute Quad: Montgomery, IN

PURPOSE: Expansion of an existing surface mine facility to extract coal from multiple seams, and sell on the open market.

DESCRIPTION OF WORK: The proposed project would result in the discharge of fill and/or dredged material into "waters of the United States" on a 1,059-acre amendment area for the existing Antioch Mine. The existing mine is 1,277 acres and approved under Department of the Army Permit LRL-2005-359-gjd, and Surface Mining Control and Reclamation Act (SMCRA) permit #S-355. A 162.3-acre portion of the amendment area is approved under SMCRA #S-355-1, and 896.7 acres of the amendment area is pending authorization under SMCRA #S-355-2.

The proposed mine would excavate coal seam overburden to uncover and mine multiple coal seams. The four major coal seams of economic importance locally belong to the Staunton and Brazil Formations. All economically recoverable coal would be removed during the excavation, processed and sold. The remaining excavated overburden materials generated, non-coal wastes, and any coal processing waste materials would be placed in designated fill areas or into adjacent mined out

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pits. The area would be returned to its approximate original contour, covered with reserved soil materials, revegetated and returned to the SMCRA approved post-mine land uses.

The 99.61% of the amendment area drains northward to the South Fork Prairie Creek, and is located in HUC12 051202020705. The remainder of the amendment area drains south to the Hurricane Creek-Veale Creek watershed, HUC12 051202020901. All streams in this region drain to the West Fork of the White River.

Streams and wetlands would be impacted from the construction of the surface mine and associated facilities. A total of 25,668 linear feet of jurisdictional stream would be impacted. Of this, 16,927 linear feet of the proposed impacts would be to ephemeral streams and 8,741 linear feet would be to intermittent streams. Additionally, 1.21 acres of Palustrine Forested Wetland (PFO) would be impacted.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The applicant considered numerous design alternatives, but due to the geometric configuration of the subject land parcels and location of jurisdictional waters, a functional design for the surface mining facility that did not discharge dredged or fill material could not be achieved.

Stream buffer zones and wetland buffer zones also were considered but were eliminated due to the configuration of the site. Streams and associated wetlands dissect the proposed permit area and the additional time, road crossing construction, and costs of moving equipment, coal, and overburden make this economically unfeasible for a site of this size. Conditions at the Antioch Mine site allowed for configuration of the mine boundary to avoid impacts to several jurisdictional streams, as well as re-mining previously disturbed and reclaimed areas. Of the 28,589 linear feet of stream and 1.38 acres of PFO wetland identified within the review area, 2,918 linear feet of stream impacts and 0.18 acre of PFO wetland would be avoided.

For the unavoidable impacts, the applicant proposes to offset the stream and wetland impacts by constructing on-site stream and off-site wetland mitigation.

The applicant proposes to reconstruct streams on the reclaimed landscape totaling 12,417 linear feet of ephemeral and 12,102 linear feet of intermittent stream. Restored valleys and post-mine drainage corridors would be installed in the final graded mine spoil at locations shown on the attached Mitigation Map. Restored "natural style" stream channels would be located in post-mine drainage corridors and connected to down gradient undisturbed stream channels. No substrate material from other sites is proposed to be brought to this site. The restored valley slope(s) would be determined in the field and used to determine the Rosgen stream type channel that would be suitable for the restored valley. The restored streams would be constructed in disturbed materials and not in natural bed soils.

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Wetland mitigation would be in the form of off-site creation of 3.63 acres of PFO wetland. The applicant purchased the Burkhart Farm located within the original SMCRA #S-355 permit area. This operator owned land has been surface mined backfilled and final graded in the fall of 2015. The applicant plans to use a "Levee Plow" to install raised planting beds following the surface contours. The typical planting beds will be about 14-18 inches high, flat topped and about 6 feet wide at the top. Cross-beds would be installed as needed to minimize runoff flow and erosion in the areas between the planting beds. Plant species would be approved by the Corps which are appropriate for the landscape and wetland classification.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps would make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied.

A DA Permit, if otherwise warranted, will not be issued on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice may constitute the application for the 401 certification. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, Section 401 WQC Program, 100 N. Senate Avenue Room N1255, Indianapolis, Indiana 46204. The applicant is responsible for obtaining the certification from IDEM.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this

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notice, or by other means, of specific archaeological, scientific, prehistoric, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Mr. Matt Dennis, CELRL-RDS at the address noted above and should refer to the Public Notice Number LRL-2016-630-mad.

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If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2016-630-mad.

Example:

Subject: LRL- 2016-630-mad

b) Provide your physical mailing address and telephone number.

c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.



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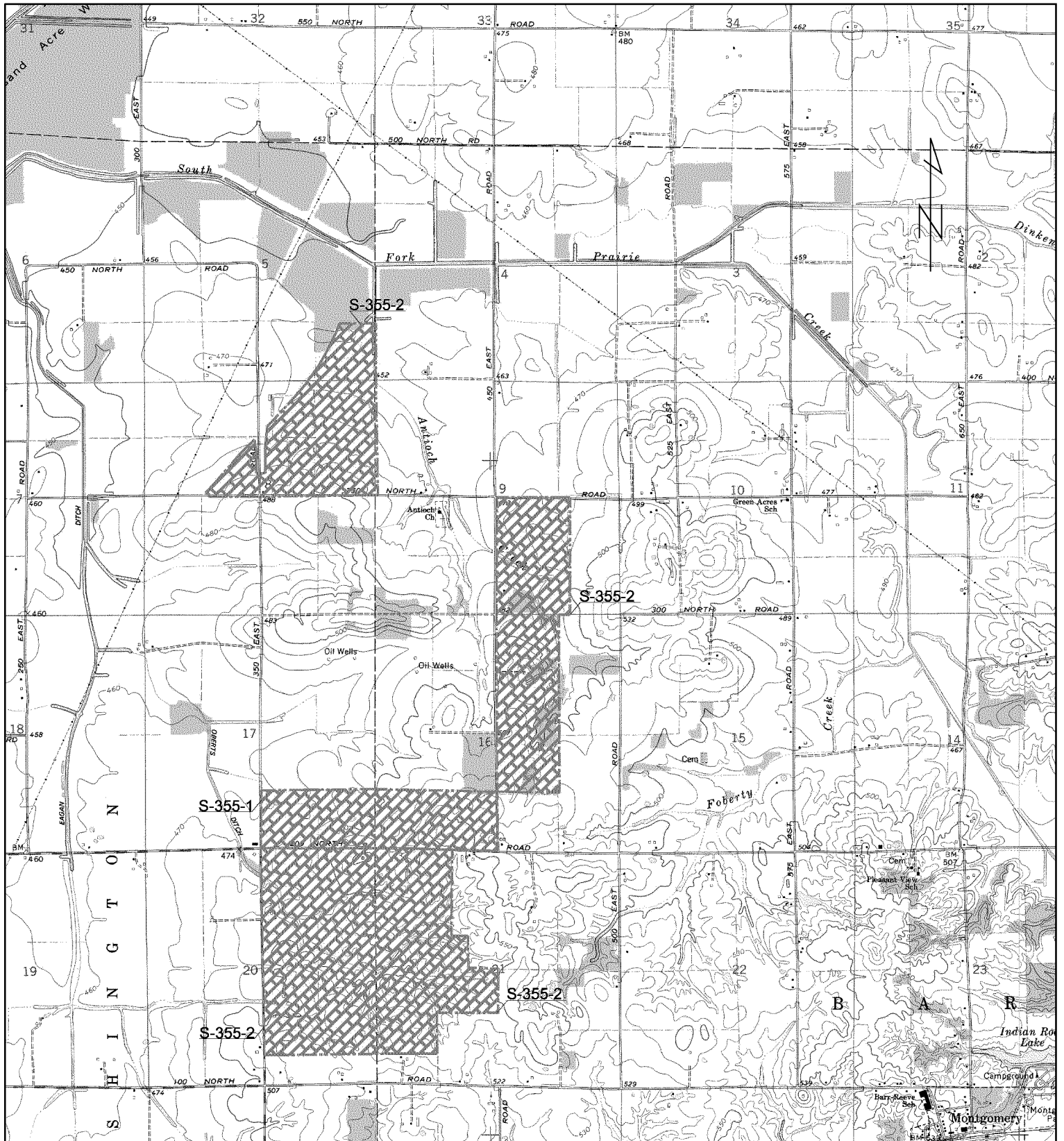
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Solar Sources, Inc.

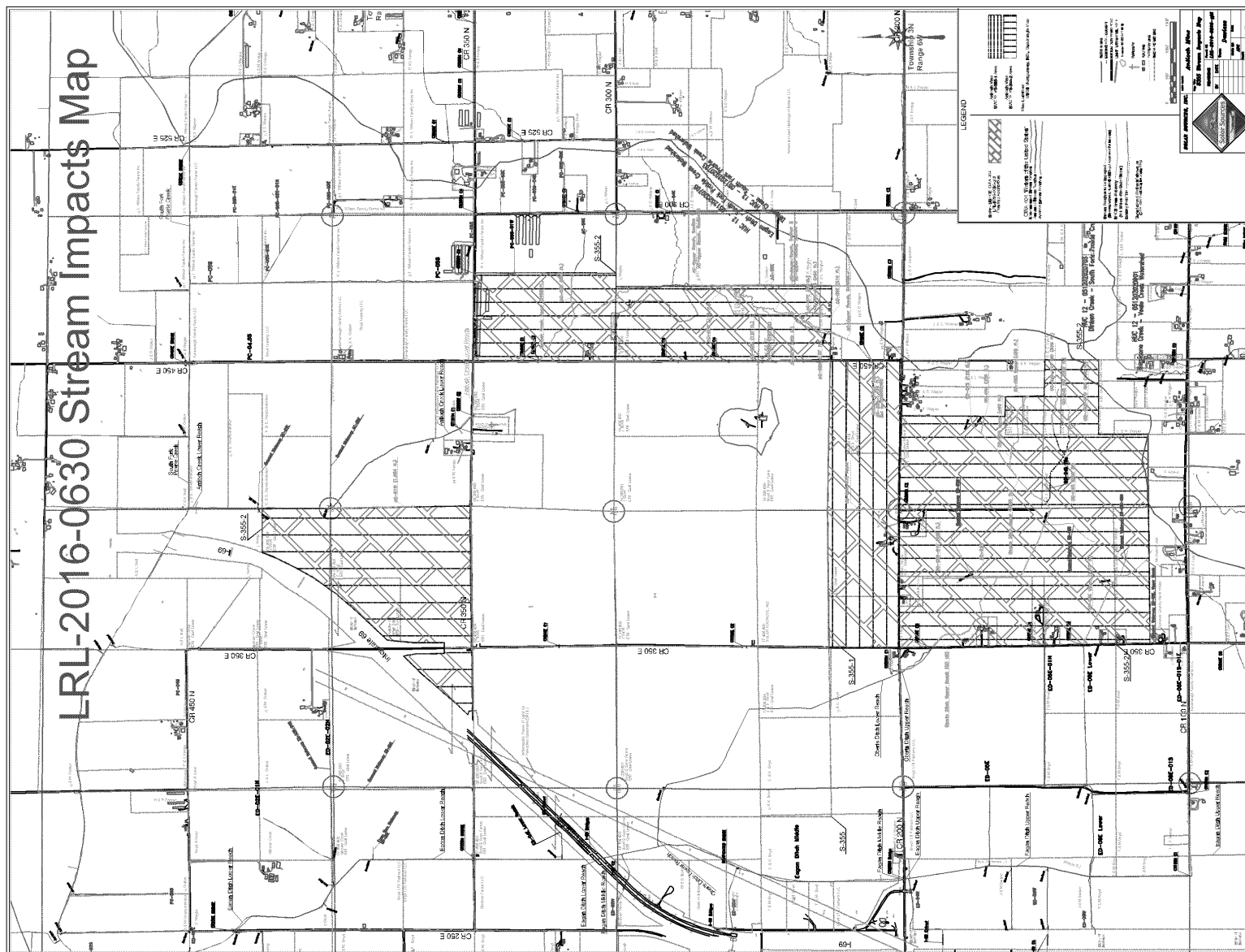
Antioch Mine, #S-355-1 & #S-355-2
COE ID No. LRL-2016-0630

Location Map for
CWA 404 Permit Area



Date: 01/18/17





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